IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.R. No.985 of 2007
Date of Decision:11.10.2007

Smt. Sukhmeen Kaur and another **.....Petitioners**

Vs.

The Ludhiana Improvement Trust, Ludhiana and another **.....Respondents**

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. Amit Rawal, Advocate for the petitioners.

None for the respondents despite service.

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Rajesh Bindal, J.

The challenge in the present petition is to the order dated 30.10.2001 passed by learned Civil Judge, Junior Division, Ludhiana and order dated 29.1.2007 passed by Additional District Judge, Ludhiana in an application filed under Order 39 Rules 1 and 2 of CPC.

Learned counsel for the petitioners submitted that vide order passed by learned Additional District Judge on 22.11.2006, modifying the earlier order passed by it on 17.11.2001, the respondents were restrained from interfering in the running of cinema and the allotment of cinema site subject to the petitioners paying the entire principal amount for which the property in question was purchased, along with interest on account of delayed payment in terms of rules, within 15 days. The issue of payment of interest in excess of 12% on account of delayed payment and the penalty was to be decided subsequently. The petitioners failed to pay the balance amount. Consequently, the appeal filed by the petitioners against the order of the learned Civil Judge Junior Division, Ludhiana was rejected and the application for interim relief was dismissed.

Before this Court, learned counsel for the petitioners submitted that the entire allotment money along with interest has already been paid by the petitioners to the respondents for 9.7.2007.

In spite of the fact that a sum of Rs.33,03,335/- was deposited by the petitioners along with a letter dated 7.7.2007 specifically referring to

the present petition filed in this Court and also the fact that the service of respondents was recorded to be complete vide order passed by this Court on 10.7.2007. No one has chosen to appear for the respondents and, accordingly, the petition was heard ex parte.

In the present case, as is evident from the order passed by the Courts below, the interim injunction was declined to the petitioners for the reason that they had not paid the allotment money for the plot in question. However, as stated by the petitioners, they had already deposited the entire allotment consideration along with interest and inter-alia dispute remains as to whether the penalty/ penal interest is leviable on the petitioners or not to which also the counsel for the petitioners states that in terms of resolution dated 11.8.2006 passed by the respondent- Corporation, the petitioners were permitted to pay the amount without penalty/ penal interest.

Without commenting upon the merit of the controversy in dispute and keeping in view the fact that the entire sale consideration along with interest has been paid by the petitioners, I direct that the respondents shall not interfere in free enjoyment of the property by the petitioners. The trial court, however, is directed to expedite the hearing of the suit and dispose of the same at an early date.

The revision petition is disposed of accordingly.

October 11, 2007 **(RAJESH BINDAL)**
renu **JUDGE**